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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DONALD STEWART, as Special
Administrator to the Estate of BARBARA
STEWART, deceased,

Plaintiffs,

vs.

WALMART, INC., dba WALMART, a foreign
corporation, DOES I through X, inclusive;
DOE EMPLOYEES I through X; and ROE
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: 2:23-cv-00062-APG-NJK

**JOINT DISCOVERY PLAN
AND SCHEDULING ORDER**

COMES NOW Plaintiffs DONALD STEWART, as Special Administrator to the Estate of BARBARA STEWART, deceased, by and through their attorneys of record, JACOB S. SMITH, ESQ., and ERIC A. CIAROLLA, ESQ., of the law firm of HENNESS & HAIGHT, and Defendant WALMART, INC., dba WALMART, by and through their attorneys of record, CHARLES T. MEYER, ESQ., TABETHA A. MARTINEZ, ESQ., and SUSAN E. GILLESPIE, ESQ., of the law firm of BURGER | MEYER LLP, and hereby submits this Proposed Joint Discovery Plan and Scheduling Order.

1. **Meeting:** Pursuant to FRCP Rule 26(f), a meeting was held on February 15, 2023, and was attended telephonically by Eric A. Ciarolla, Esq., of HENNESS & HAIGHT for Plaintiffs

DONALD STEWART, as Special Administrator to the Estate of BARBARA STEWART, deceased; and Susan E. Gillespie, Esq. of BURGER | MEYER LLP, for Defendant WALMART, INC., dba WALMART.

2. **Pre-Discovery Disclosures:** Pursuant to FRCP Rule 26(a)(1), the parties will make their pre-discovery disclosures, including but not limited to any Computation(s) of Damages required pursuant to FRCP 26(a)(i)(A)(iii), by March 3, 2023.

3. **Areas of Discovery:** The parties agree that the areas of discovery should include, but not be limited to: all claims and defenses allowed pursuant to the Federal Rules of Civil Procedure.

4. **Discovery Plan:** The parties propose the following discovery plan:

A. Discovery Cut-Off Date(s):

The discovery period shall be calculated as one hundred eighty (180) days from the date of the FRCP Rule 26 conference, such that discovery closes on August 14, 2023.

B. Amending the Pleadings and Adding Parties: The parties shall have until May 16, 2023 to file any motions to amend the pleadings to add parties. This is 90 days prior to the discovery cut-off date.

C. Fed. R. Civ. P. 26(a)(2) Disclosure of Experts: Disclosure of experts shall proceed according to FRCP Rule 26(a)(2) and LR 26-1(e)(3) as follows: the disclosure of experts and their reports shall occur on or before June 15, 2023 (sixty (60) days before the proposed discovery cut-off date). The disclosure of rebuttal experts and their reports shall occur on or before July 17, 2023 (thirty (30) days after the initial disclosure of experts).

E. Dispositive Motions: The date for filing dispositive motions shall be no later than September 13, 2023, 30 days after the proposed discovery cut-off date. In the event that the

1 discovery period is extended from the discovery cut-off date set forth in this proposed Discovery
2 Plan and Scheduling Order, the date for filing dispositive motions shall be extended to be not later
3 than 30 days from the subsequent discovery cut-off date.

4
5 **F. Pre-Trial Order:** The date for filing the joint pretrial order shall not be later than
6 October 13, 2023, thirty (30) days after the cut-off for filing dispositive motions. In the event that
7 dispositive motions are filed, the date for filing the joint pretrial order shall not be suspended until
8 thirty (30) days after decision on the dispositive motions or until further order of the court. In the
9 further event that the discovery period is extended from the discovery cut-off date set forth in this
10 Discovery Plan and Scheduling Order, the date for filing the joint pretrial order shall be extended
11 in accordance with the time periods set forth in this paragraph.

12
13 **G. Fed. R. Civ. P. 26(a)(3) Disclosures:** The disclosures required by Fed. R. Civ. P.
14 26(a)(3), and any objections thereto, shall be included in the joint pretrial order.

15
16 5. **Alternative Dispute Resolution:** Counsel for the parties certify that they met and
17 conferred about the possibility of using alternative dispute resolution including mediation,
18 arbitration and/or an early neutral evaluation. The parties agree that an early neutral evaluation
19 would not be effective at this time as the parties and their counsel believe that it is necessary to
20 conduct discovery before attempting to resolve this case. Counsel further agree that a settlement
21 conference will be beneficial after discovery is concluded. Finally, the parties and their counsel are
22 not interested in submitting this case to arbitration.

23
24 6. **Alternative Forms of Case Disposition:** The parties certify that they discussed
25 consenting to a trial by a magistrate judge or engaging in the Short Trial Program under Fed. R.
26 Civ. P. 73 and at present do not consent to either alternative form of case disposition.

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7. **Electronic Evidence:** The parties certify that they have discussed and intend to use electronic evidence at the trial of this matter and will ensure that said evidence is in an electronic format compatible with the Court's electronic jury evidence display system. At present, the parties have not agreed upon any stipulations regarding use of electronic evidence but will address this issue again in the Pre-Trial Order.

8. **Extensions or Modifications of the Discovery Plan and Scheduling Order:** Any stipulation or motion must be made no later than twenty-one (21) days before the subject deadline. Requests to extend discovery deadlines must comply fully with LR 26-3.

APPROVED as to FORM and CONTENT:

DATED this 3rd day of March, 2023.

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HENNESS & HAIGHT

BURGER | MEYER LLP

/s/ Eric A. Ciarolla, Esq.

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Walmart*

IT IS SO ORDERED this 6th day of March, 2023.


UNITED STATES MAGISTRATE JUDGE